

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16131 of the District of Columbia Housing Authority and the Ellen Wilson Redevelopment Limited Liability Company, pursuant to 11 DCMR 3108.1 and 3107.2, for the following special exception and variance relief:

1. Special exception under Section 2516 to allow new construction on theoretical lots;
2. Special exception under Paragraph 2516.5(b) for the front yard set back requirements;
3. Special exception under Paragraph 2516.6(b) and (c) for ingress and egress requirements;
4. Special exception under Section 2116 to allow required parking spaces to be located on another lot;
5. Special exception under Section 205 to establish a child development center;
6. Special exception under Section 209 to establish a community center;
7. A variance from the rear yard requirements (Subsection 404.1);
8. A variance from the side yard requirements (Subsection 405.9);
9. A variance from the off-street parking requirements (Subsection 2101.1);
10. A variance from the allowable lot occupancy requirements (Subsection 403.2), and;
11. A variance from the size of required off-street parking spaces (Subsection 2115.1).

For the construction of 62 flats and 30 single-family dwellings, a community center with a child development center and utility shed in an R-5-B District at premises 704-710 6th Street, S.E.; 715 and 719 7th Street, S.E.; 610-638 Ellen Wilson Place, S.E.; 611-639 Ellen Wilson Place, S.E.; 600-610 I Street, S.E.; 614-632 I Street, S.E.; 636-654 I Street, S.E.; 721-733 7th Street, S.E.; 737 7th Street, S.E.; 649-659 I Street, S.E.; 745 and 743 7th Street, S.E.; 619-645 I Street, S.E.; and, 601 and 603 I Street, S.E. (Square 878 Lots 1-93, Parcels A-D).

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HEARING DATE: April 17, 1996  
DECISION DATE: June 5, 1996

ORDER

SUMMARY OF EVIDENCE OF RECORD:

The property which is the subject of this application is located at 704-710 6th Street, S.E.; 715 and 719 7th Street, S.E.; 610-638 Ellen Wilson Place, S.E.; 611-639 Ellen Wilson Place, S.E.; 600-610 I Street, S.E.; 614-632 I Street, S.E.; 636-654 I Street, S.E.; 721-733 7th Street, S.E.; 737 7th Street, S.E.; 649-659 I Street, S.E.; 745 and 743 7th Street, S.E.; 619-645 I Street, S.E.; and, 601 and 603 I Street, S.E. (Square 878 Lots 1-93, Parcels A-D). It is bonded by (i) 6th Street, S.E. on the west, (ii) Virginia Avenue, S.E. and the SE Southwest Expressway on the south, (iii) 7th Street, S.E. on the east and (iv) an east-west public alley on the north. The site, which is located within the Capitol Hill Historic District, is zoned R-5-B.

The site is currently improved with vacant, boarded-up and dilapidated two-story and three-story structures which were built in the 1940s. These structures, built in the style of garden apartments traditional for the time of their construction and containing 134 units, were previously used for public housing until their abandonment in 1988. The Ellen Wilson site also contains an abandoned building previously used for storage purposes. There are four townhouses located in the middle of the block on Sixth Street which abut the subject site on three sides but which are privately owned and therefore not a part of the site.

The applicants, the D.C. Housing Authority and the Ellen Wilson Redevelopment Limited Liability Company, propose to demolish the existing structures and to develop 134 replacement units, which would be owned as the Capitol Hill Cooperative Housing Association (the "Cooperative"), 20 market rate units and a community center which would also contain a child development center. The market rate units would be scattered throughout the development and would be built to the same standards as the replacement units. Of the replacement units, the proposal contemplates the following: 46 one-bedroom, one-bath units; 6 two-bedroom, one-bath units; 76 two-bedroom, two-bath units; and 6 three-bedroom, two-bath units.

The overall design goal of the new development is to transform a failed and abandoned public housing site into a housing development with a low-scale townhouse character, consistent with the historic patterns and appearance of residential development in the Capitol Hill Historic District. The site plan includes a new public street, proposed to be named "I Street, S.E.," and a "mews" (technically a public alley), to be designated "Ellen Wilson Place, S.E." The new street is designed to replace a street which

bordered on the site prior to 1940 and the mews is intended to replicate numerous narrow streets on Capitol Hill. New sidewalks are to be composed of brick, with granite curbs along I Street and concrete curbs along Ellen Wilson Place. The site plan would also incorporate planting strips for street trees.

Plans for the redevelopment of the Ellen Wilson site have been developed over a five-year period by the members of the Ellen Wilson Neighborhood Redevelopment Corporation (the "CDC"). The CDC is an organization drawn from the community surrounding the Ellen Wilson site, including area businesses and residents, as well as former residents of Ellen Wilson public housing. The CDC was organized in the fall of 1991, and subsequently selected a development team to design, develop, build and manage the new Ellen Wilson community.

The development team is comprised of the CDC, the Telesis Corporation, a specialist in community development, affordable housing, and neighborhood planning, and the Corcoran Jennison Companies, an experienced real estate development and management firm with experience in mixed-income redevelopment projects. The development team was selected in a competitive process administered by the D.C. Department of Public and Assisted Housing (now the District of Columbia Housing Authority, "DCHA"). In the fall of 1993, based on a proposal prepared by the development team, DCHA was awarded a HOPE VI/Urban Revitalization Demonstration grant to redevelop the Ellen Wilson site. The private firm of McHenry/ TAG, Inc. was designated by HUD and DCHA to administer the grant on behalf of DCHA.

As the Alternative Administrator, McHenry/TAG works for the D.C. Housing Authority and represents the housing authority, HUD and the public's interest to insure that the redevelopment is carried out in accordance with the HOPE IV guidelines and the Revised Revitalization Plan.

HOPE IV is a demonstration program of partnerships designed to revitalize public housing communities.

In order to facilitate community involvement, the applicants will create a New Community Trust (the "Trust"), which will be comprised of community and cooperative members, and which will serve as the intermediary between the DCHA and the new Cooperative in the governance of the new community.

DCHA owns the land on which the site is to be developed. Under the proposed plan, DCHA would provide the Trust with a 99-year renewable ground lease allowing subleasing to the Cooperative. The ground lease would contain restrictions on the use of the land and the operations of the Cooperative, which the Trust would be bound to enforce.

The Trust would lease the land to the Cooperative on the same terms as the ground lease. Additional restrictions or requirements would be incorporated into this sub-lease where appropriate. The Trust would also monitor the operations of the Cooperative and provide detailed reports to DCHA.

The Cooperative would lease the land from the Trust under restrictions specified in the Ground Lease. The Cooperative would own the buildings on the land, except for the twenty (20) fee simple units, and would perform the day-to-day management functions with the help of a professional management company. The Cooperative would report to the Trust.

The day-to-day operations of the new Ellen Wilson Development would be managed privately by the CJ Management Company ("CJ"), a division of the Corcoran Jennison Companies. CJ is experienced with management of mixed-income communities.

The R-5-B zoning classification allows the proposed residential uses as a matter of right. The community center and child development center require special exception approval. In addition to the relief needed for the uses, the applicants seek relief in a number of other areas to address problems with the development of the project.

**Zoning Relief Requested:**

**Exceptions to Building Lot Control Residence Districts:**

Section 2516 of the Zoning Regulations allows the construction of two or more principal buildings or structures on a single subdivided lot if the enumerated conditions are met. This special exception is required because the new street and the new mews (alley) have not yet been dedicated. Therefore, for an interim period, most of the lots do not front on a public way. Upon these dedications, each lot in the project would have public right-of-way frontage.

**Front Yard Requirement**

**Subsection 2516.5(b)- relating to the front yard requirement states:**

2516.5 If a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building, the following provisions shall apply:

- (b) Open space in front of the entrance shall be required that is equivalent either to the required rear yard in the district in which the building is located or to the distance between the building restriction line recorded on the records of the Surveyor of the District of Columbia for the subdivided lot and the public space upon which the subdivided lot fronts, whichever is greater; ...

The proposed development would provide front yard setbacks for all the lots that require such setbacks. However, the front yards of the units located on the mews (Ellen Wilson Place) would be 13 feet rather than 15 feet deep, and the ones located on the south side of the new street (I Street) would be 11 feet rather than 15 feet deep.

Ingress/Egress/Turning Area Requirements:

Subsection 2516.6(b) and (c) state:

2516.6 In providing for net density pursuant to Subsection 2516.11, the Board shall require at least the following:

. . . .

- (b) Notwithstanding any other provision of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five (25 ft.) in width, but need not be paved for its entire width;

. . . .

- (c) If there are not at least two (2) entrances and/or exits from the means of ingress or egress, a turning area shall be provided with a diameter of not less than sixty feet (60 ft.); . . .

With regard to Subsection 2516.6(b), vehicle ingress and egress to all the proposed dwelling units on the mews would be by means of a paved 16-foot wide right-of-way which would be dedicated as a public alley. Both the Departments of Public Works and Fire and Emergency Medical Services have indicated that the width is adequate for all vehicular traffic. Combined with a 7-foot wide parking area on both sides of the mews, a 30-foot wide paved vehicular area would be created. This total width could not be increased without adversely affecting the width of the parking spaces in front of the mews dwellings or the sidewalks which serve them.

A special exception from Subsection 2516(c) is required only because the mews would be a one-way street rather than two-way.

However, all the dwelling units located on the north side of the mews would be accessible from the rear by means of an existing public alley, and all units on the south side of the mews would be accessible by a means of a private driveway, which would be subject to a recorded easement or right-of-way. As a result, two means of ingress and egress (and adequate access) would be provided for all units.

#### Location of Parking Spaces

Section 2116 sets forth the requirements for the provision of parking spaces for the individual lots. Generally, this provision requires all parking spaces to be located on the same lot as the structures they are intended to serve. These spaces are to be located within a garage or carport or on an open area in the rear yard or side yard.

If the parking spaces are not located on the particular lot, under this Section of the Zoning Regulations, the preferred location would be on adjacent lots or lots separated only by an alley from the lot where the structure is located.

With regard to these requirements, each residential structure in the project would be provided with the required parking spaces, although some parking spaces cannot be provided on the individual lots they would serve. Those lots which are landlocked, or which abut another lot in an intersection of two public streets, cannot provide the required parking spaces on site. However, these required parking spaces would be provided within the development (on the same record lot) and within the proximity of the associated theoretical lot.

#### Child Development Center

The applicant maintains that the proposed child development center would comply with all the provisions promulgated in Section 205. It is the applicant's contention that the facility would meet all applicable District of Columbia code and licensing requirements. It would not generate any objectional traffic conditions or create an unsafe condition for picking up and dropping off children. Parking would be provided for users of the facility as follows: four spaces on site and four spaces nearby on other theoretical lots. An outdoor play space would be provided adjacent to the building. The hours of operation of the Day Care Center would be Monday - Friday, 6:00 a.m. to 8:00 p.m. The maximum number of children enrolled at the child development center would be 24, with a maximum staff of five.

Community Center.

The applicant stated that the proposed community center meets the provisions in Section 209 of the Zoning Regulations. The proposed two-story community center would be constructed at the intersection of Sixth Street, S.E., Virginia Avenue, S.E. and the new street (proposed I Street, S.E.). The proposed structure would be designed as an identifiable neighborhood facility, such as is found elsewhere on Capitol Hill. Its siting, scale, size, orientation and materials would reflect its function and distinguish it from the new townhouses, while maintaining a compatible character with the fabric of the historic district. The community center would house the child development center, management offices, sales office and a community services office and would contain approximately 5,600 square feet of floor space.

The proposed community center would contain a meeting room, to be used by the residents of the Ellen Wilson development. It would accommodate approximately 58 persons.

Because of its location and use by residents of the development, it is the applicant's contention that the center would not become objectionable due to noise or increased traffic.

The hours of operation of the proposed community center and its offices would be as follows:

Management: Monday - Friday 9:00 a.m. to 5:00 p.m.

Sales Office: Monday - Friday 10:00 a.m. to 6:00 p.m.  
Saturday - 10:00 a.m. to 5:00 p.m.

Community Services: Monday - Friday 3:00 p.m. to 8:00 p.m.  
Saturday - 10:00 a.m. to 6:00 p.m.

Area Variance

Subsection 404.1 requires a rear yard depth of not less than 15 feet in an R-5-B zone district. The proposed dwellings on Ellen Wilson Place (the mews) would not have the required rear yards but, instead, would have side and front yards. As explained by the applicants' architect, the practical difficulty in meeting the requirements of subsection 404.1 arises from a number of factors:

A. Unusual size and dimensions of Square 878:

Because of the size and trapezoidal dimensions of Square 878, some of the houses on the mews will not have rear yards. To provide rear yards in some instances would

eliminate room for access and parking, and moving some of the houses to create rear yards would interfere with the existing townhouses.

B. Policies of the Historic Preservation Review Board:  
The applicant maintains that certain limitations are placed on the project because of the policies of the HPRB.

C. Mandate of U.S. Department of Housing and Urban Development:

The applicant stated that HUD requires that at least 134 public housing units be replaced in the proposed redevelopment.

D. Department of Public Works and D.C. Code Requirements:  
The applicant stated that DPW and the D.C. Code have requirements related to the minimum width of the new mews. These requirements impact on the applicants' ability to provide rear yards in compliance with the Zoning Regulations.

Subsection 405.9. sets forth the minimum side yard requirements for the project:

A side yard variance is needed for Lots 36, 45 and 93. With respect to Lot 36, the dwelling on Lot 36 does not provide the necessary side yard width because it is set back 1.34 feet (not eight feet) in order to allow for sheeting and shoring which is required along the west property line. However, a side yard of eight (8) feet, as required, is provided along the east property line. The properties to the west of Lot 36 are at a considerably different grade. Therefore, this variance is required because of the unusual condition of the grade at this location. The applicants stated that there will be no adverse impact because adequate light, air, space and privacy will be provided on the east side of the dwelling and in the rear yard.

As to Lot 45, a side yard variance of 2.8 feet is needed at the front of the lot only because the lot is trapezoidal due to a bend in the new street. Notwithstanding this variance, the side yard averages 9.8 feet, in excess of the required eight (8) feet. With respect to Lot 93, which contains the community center and the child development center, a side yard of four (4) feet is provided. This size of the side yard is necessary to accommodate a sidewalk for the drop off and pick up of children at the day care center (i.e., for safety reasons) and for general pedestrian circulation on the site. This lot is trapezoidal due to the angle of existing Virginia Avenue and the requirement, imposed by DPW, that the new street (I Street) be perpendicular to 6th Street at the point where



they connection. The applicants maintain that this side yard variance creates no adverse impact because Lot 93 is quite large and provides adequate light, air, and open space.

Subsection 403.2 allows for a 60 percent lot occupancy. A variance from the lot occupancy provision is needed for Lot 1 only and is necessary because the lot is oddly configured. This configuration, which results in an odd angle in the rear of the lot, was created when the District of Columbia widened the abutting public alley to facilitate vehicular turning movements. As a result, this lot is only seven (7) feet smaller than the immediately abutting lot (i.e., Lot 2). The building on Lot 1 will occupy 61.5 percent of its lot, an amount which is in excess of the maximum (60%) by 1.025%. The applicants stated that the exceptional or unusual circumstance affecting this lot is the lot configuration caused by the widening of the public alley. In the applicants' view, granting this variance will not adversely affect the owner of this lot or any neighbor because adequate light, air, open space and privacy will be created.

Subsection 2115.1 provides that off-street parking spaces shall be a minimum of 9 x 19 feet. A variance is needed only for parking spaces located in front of the mews structures. These spaces are seven (7) feet by twenty-two (22) feet, rather than nine (9) feet by nineteen (19) feet. However, these spaces are parallel to the new mews (alley) and, as such, satisfy ASHTO and other standards applicable to the size of such parallel parking spaces for on-street parking. The need for this variance arises because the dimensions of the existing public alley (abutting the site on the north) and the new mews (alley) are fixed (i.e., the alley to the north is an existing condition and the new mews is required by DPW and the Fire Marshall to be a right-of-way going straight through the block from 7th Street to 6th Street). The location of the new mews (alley) cannot be relocated because of the existence of four townhouses on 6th Street, S.E., which are outside of (but surrounded by) the subject site. The unusual or exceptional condition is, thus, the existence and relationship of two conditions, the public alley and the four townhouses. The applicants maintain that this variance can be granted without creating adverse impacts because the parking spaces, although substandard for normal conditions, comply with applicable standards for on-street parallel spaces.

Subsection 2101.1 requires off-street parking for the child development center and community center as follows:

Child development center: 1 space or each 4 teachers and other employees.

Community Center: 1 for each 10 seats of occupancy capacity for the first 10,000 seats, plus 1 for each 20 seats above the first 10,000 ....

The applicant stated that four parking spaces would be provided for the exclusive use of the center. Additional parking spaces would be provided off-street (behind Lots 79-92) and along the new I Street for use by staff and visitors.

### The Proposed Dwelling Units and Site Plan

The applicant's architect testified that there were eight design goals for the site plan: (1) accommodation of the architectural program, including the HUD mandate that 134 units be built, maximization of the number of fee simple units, and inclusion in the plans of a community building; (2) maximization of security and safety for the residents; (3) promotion of a sense of community and personal investment for the residents of Ellen Wilson; (4) incorporation of a variety of unit sizes and shapes; (5) construction of all units to the same design standard; (6) integration into the surrounding community; (7) minimization of the effect of the adjacent highway on the quality of life within the community; (8) integration of the four existing row houses into the site development.

The new townhouses would consist of single- and two-family buildings and would vary in height from two to four stories and in width from 17'-4" to 24', keeping with the range of building dimensions in the Capitol Hill Historic District. Buildings would be either rowhouses or semi-detached. All structures would be oriented toward public space - either an existing street, the new public street or the mews. Materials, textures, colors, architectural details, projecting bays, stairs and roof forms of the flats and single family structures would be similar to those seen throughout Capitol Hill. Five unit types would be provided, each representative of an existing Capitol Hill dwelling type, in order to provide architectural diversity within the Ellen Wilson Community, as well as further the goal of blending with the surrounding Capitol Hill neighborhoods.

In order to facilitate safety, the site plan would contain no dead-ends or cul-de-sacs, so that pedestrians would not feel trapped. In addition, all streets would be double-sided.

The applicants' architect stated that although some synthetic building materials would be used, the predominant building material would be brick. It was further explained that synthetic materials would be included in the construction of the dwelling units, as seen throughout Capitol Hill, to create a variety of fronts to the dwelling units. Finally, synthetic materials would be used on the rears of buildings, as is common on Capitol Hill.

When questioned whether it would be possible to put fewer units on the site (placing the remaining replacement units in other areas of the city), the applicants' architect responded that to do so would prevent the site plan from blending in with the surrounding blocks, and from a design point of view, would prevent a community feeling. It was explained that in designing the site plan, the architect attempted to avoid any gaps, thus creating a community which complements the surrounding units. That is, the architectural design of the units has been kept consistent with the placement of buildings against one another, as is seen on surrounding Capitol Hill streets.

### Landscaping, Fencing and Site Lighting

The applicants' landscape architect testified about the landscape design for the Ellen Wilson Redevelopment project.

He stated that the goal of the landscape design of the Ellen Wilson Redevelopment proposal is to fit naturally into the fabric and blend in with the character of the surrounding Capitol Hill neighborhood.

Lighting would be provided by carefully placed Martha Washington globe lights matching those found throughout Capitol Hill. Street trees, including maples and little leaf lindens, would be located so as to provide shade along the public streets. These street trees would also provide an element of unity throughout the site and knit it into the existing character of the surrounding neighborhood. Trees would be selected from the D.C. street tree master plan.

Brick sidewalks, in herringbone pattern, would parallel the streets and physically tie the site to the adjacent 6th and 7th Streets.

The front gardens which face the public streets would be surrounded by 32-inch high decorative iron fences, which are commonly seen around Capitol Hill. Front gardens themselves would be individually designed for each house, using a simple palette of trees, shrubs and ground covers. The management staff of the Cooperative would be responsible for the upkeep of front gardens, while the residents would be responsible for the upkeep of side and rear gardens, which would require little maintenance.

A collection of evergreen trees and screen plantings, shrubs and ground covers would be planted so as to create a screen from the noise and traffic of Virginia Avenue. The existing street trees (red oaks) on Virginia Avenue would remain and missing trees would be replaced.

Private yards would be divided by six foot high wood fences, each of which would have a gate access to the private parking areas of the site. Private yards would be accessed through the houses by either a spiral stair from the upper unit, or an on-grade access from the lower unit. Each yard would contain a simple selection of surface materials, including a bluestone terrace, stepping stones leading to the gate, a lawn area and small flowering trees or groupings of shrubs.

Planted parking islands containing large shade trees, shrubs and ground cover plantings would be incorporated into the private parking areas to soften the look of the paving and cars. Martha Washington globe lights would be used to provide effective lighting for pedestrians.

### Parking

The applicants' architect testified about the parking conditions and the applicants' traffic engineer submitted a report related to the traffic conditions and parking, in the vicinity of the site.

The report noted the current conditions at the site. On-street parking (two-hour residential permit) is currently available on both sides of Sixth, Seventh and G Streets. Although there are no posted parking restrictions, vehicles normally are not parked on Virginia Avenue.

The site plan provides approximately 163 parking spaces for the residential units (more than one per unit) and the community center. This is approximately 75% more than the amount that the D.C. Department of Public Works has found necessary for this type of land use and 30% more than current car ownership in the surrounding area. On-site parking would consist of 121 residential spaces and four spaces for the community center. In addition, 38 new parallel parking spaces would be provided on the new I street.

It is the opinion of the applicants' traffic engineer that the proposed on-site parking should be adequate for all of the residents as well as their guests in normal circumstances, and that there should be no need to use on-street parking on any of the surrounding streets.

Residents and employees would be issued parking stickers allowing them to park on-site. All vehicles that do not display resident parking stickers would be towed. Enforcement would be part of the management duties and would ensure enough parking for both residents and employees.

Eight parking spaces would be provided at or near the community center: four spaces on the community center site and four

spaces in the private on-site parking areas. Three guest (i.e., visitor) parking spaces would be clearly marked for visitors to the sales office. Maintenance and grounds staff would park elsewhere in available spaces on-site. Any sub-contractors would be told where to park by management when on site. This would not create a parking problem as they would be on site generally during the day and could park in available parking spaces. Any after hours sub-contractors (i.e., cleaners for the day care center) would be able to park in spaces designated for the manager or sales office.

As it is expected that all residential meetings would be held in the evenings, and that all residents would walk to the community center, no parking spaces would be necessary for meeting room activities.

In a memorandum dated April 5, 1996, DPW stated that the provision of 121 parking spaces and 35-40 new on-street parking spaces would be adequate to meet parking demand with little or no spillover into surrounding neighborhood streets.

Traffic:

The applicants maintain that the Ellen Wilson redevelopment would have no adverse impact on traffic in the neighborhood. The applicants' traffic engineer submitted a report related to the traffic conditions in the vicinity of the site.

The report noted the current conditions at the site. The site is currently served by 6th Street and 7th Street, both minor collectors; G Street, a local street; and Virginia Avenue, a major-collector service road for the Southeast Expressway. The intersections of Virginia Avenue with 6th Street and with 7th Street are controlled by two-phase traffic signals operating on 80-second cycles.

The intersection of 6th Street and G Street is controlled by stop signs for G Street. The intersection of 7th Street and G Street is controlled by 4-way stop signs.

Current peak hour traffic operates at the highest level of service ("A").

The site plan would restore the character of the public streets that bordered the site prior to 1940, and would add a new mews, resulting in efficient internal circulation.

The new street, which would be built in accordance with D.C. standards and requirements, would run parallel to Virginia Avenue, turning slightly to meet 6th Street at a 90 degree angle. The mews would be designed to look like a street and not an alley, with parking on either side of the street.

Based on many measurements of trip generation by residential units in the District of Columbia, it is expected that the new Ellen Wilson Dwellings would produce approximately 0.4 trips per unit during each peak hour, predominantly outbound in the morning and inbound in the evening. Based on these estimates, 154 units would generate the following peak hour trips:

	In	Out
AM Peak Hour	6	56
PM Peak Hour	50	12

These additional trips would not change the current "A" level of service at any of the four intersections.

In a memorandum dated April 5, 1996, DPW stated that after reviewing the proposal with regard to trip generation, it agreed with the applicant's traffic report that the 62 vehicles which would be generated by the project during the morning and evening peak hours would have a negligible impact in terms of capacity and level of service in the area road network.

#### Proposed Provision for Utilities at Ellen Wilson

The applicants civil engineering expert testified about the proposed provision of utilities of Ellen Wilson. Currently, the site is surrounded by existing water and sewer facilities. The plans would abandon all but one interior sanitary facility, which would be rerouted.

The Office of Planning (OP), by report dated April 10, 1996 and through testimony at the hearing, recommended approval of the application. OP noted the proposed use of the site. OP stated that the area surrounding the site is characterized by primarily residential uses (e.g., row dwellings, flats, apartment buildings, etc.) interspersed with small commercial establishments.

OP addressed the relief requested and expressed the opinion that the applicants have met the burden of proof relative to the zoning relief being sought in this case. OP stated that the area variances required in this case result from conditions that are inherent in the property. This creates practical difficulties for the applicants in the ability to reasonably develop the property for matter of right residential uses. The continued use of the site in a low-intensity residential capacity would not impact the surrounding neighborhood adversely in terms of noise, traffic, parking, environmental quality, or other objectionable conditions. Rather, the proposed development would return the site to a viable use that would benefit the neighborhood and would provide additional housing opportunities within the city. The proposed

subdivision of the site and the residential construction that would follow would not impair the intent, purpose, and integrity of the R-5-B zone district regulations. Accordingly, the Office of Planning recommends approval of this application.

The Department of Public Works submitted a memorandum dated April 5, 1996. DPW stated that the applicant seeks special exceptions and variances to allow new construction of 62 two-unit flats and 30 single-family dwellings containing 154 new townhouse units on theoretical lots in the R-5-B Zone. The development will also include a Community Center with a child development facility and the construction of two new streets to be designed and built to DPW standards. The development will provide 121 parking spaces for the residents and four spaces for the Community Center.

DPW examined the proposal with regard to trip generation levels, parking adequacy, site access and circulation and the public financial investment needed to accommodate the proposal.

The Department has reviewed the applicants' traffic report and agrees that approximately 62 vehicular trips will be generated by the project during the a.m. and p.m. peak hours. A review of the existing capacity of the street system leading to and from the site indicated that all adjacent intersections are operating at a good level of service during both the a.m. and p.m. peak hours. DPW is of the opinion that an addition of the 62 vehicles generated by this project will have a negligible impact in terms of capacity and level of service in the area road network.

DPW noted that the Zoning Regulations require 77 parking spaces for this project, however, the applicant will provide 121 parking spaces to accommodate residents and visitors to the new development. In addition, there will be 35 to 40 new on-street parking spaces on the new I Street created by the project. DPW is of the view that the proposed parking supply will be adequate to meet the parking demand of this project with little or no spillover into the surrounding neighborhood streets.

With regard to access and circulation, access to and from the development will be from Sixth and Seventh Streets via the new street designed and built by the applicant. The Department has no objection to the proposed traffic circulation pattern as shown on the site plan. However, as the project moves toward implementation, coordination with DPW will be required for street design and construction, street lighting, and water and sewer system connection.

With regard to public investment needed to accommodate this project, DPW noted that the cost of improving the new streets and installing new sidewalks will be borne by the applicant.

Therefore, this development will not require the expenditure of additional District funds for capital transportation improvements.

Finally, DPW concluded that the proposed subdivision will have no adverse impact from a transportation standpoint. Accordingly, the Department has no objection to the proposal.

Advisory Neighborhood Commission (ANC) 6B submitted a report and resolution dated April 9, 1996. The ANC stated that it has grave reservations about the economic structure of the Ellen Wilson development. The Commission believes that the fatal flaws in developments of this kind, as identified in numerous studies and statistics, have not been adequately addressed in this case. ANC 6B supports the concept of mixed income housing, but it believes that the success of the Ellen Wilson development is contingent on the conditions listed below being met. The ANC insists that these issues be satisfied.

1. The development team shall prepare a clear and comprehensive written statement for potential residents explaining what their obligations and rights are (e.g., How do they obtain credit to purchase shares in the co-op?). The statement shall include the co-op bylaws, the occupancy and subscription agreements, and the organization plan. These materials shall be prepared before any units are offered for sale.

2. There shall be a comprehensive and adequately funded long-term training plan to provide on-going training for residents and Board members. The development team shall sign a contract with an appropriately experienced organization to institutionalize and carry out this plan.

3. The development team shall meet the same bonding requirements (10% of the development construction costs held in a surety bond for three years) that would apply to any private project, i.e. the requirements that would apply if the District government were not involved in the project.

4. An expert panel shall confirm the adequacy of budget expectations and assumptions before the development team offers any units for sale/occupancy. The expert panel consist of three members, one selected by the development team, one selected by ANC 6B, and a third member jointly chosen by the first two.

The applicants noted that the issues raised by the ANC are not within the purview of the Board.

In its report dated April 15, 1996, the Capitol Hill Restoration Society noted the variance and special exception relief needed. It expressed no objection to the relief except that with



regard to the special exceptions for the child development center and community center, the CHRS takes no position due to lack of information. The CHRS was of the opinion that the relief sought is minor and therefore not objectionable.

No one from the neighborhood appeared at the hearing to testify as a party in support of the application.

Three witnesses testified in opposition to the application.

The first witness is a Washington native who has been in business on Capitol Hill for many years. He does not believe that the mixed income housing plan will work and he expressed a concern that the proposed housing plan will just amount to another low income housing project. He is concerned that the fee simple owners will not be able to acquire equity in their homes. Finally, he noted that many people and organizations in the neighborhood do not support the proposed project.

Another party in opposition to the application is a Board Member of the Sousa Neighborhood Association. She stated that the proposed plan will have a substantial impact on the community for a number of reasons. She believes that because of the financial structure, the plan will be unsuccessful if the applicants are unable to fill the fee simple houses with upper income homeowners. She stated that the fee simple homes may not be built because the plan is to build them only after buyers are found for those units.

This witness noted some inconsistencies between the applicants' words and their actions in some instances and she expressed a concern about her ability to trust them not to alter their plans in the future.

She urged the Board not to approve the relief requested until certain particulars are worked out, including the issues raised by the ANC.

The last opposing party to testify expressed similar concerns about the impact of the project on the community. She expressed a preference for traditional home ownership over the limited equity ownership provided for in cooperative housing. She argued that the limited equity owners would not have pride in the property, and therefore would not take care of their units, again leading to the deterioration of the Ellen Wilson development. A related concern regarding the residents of Ellen Wilson was that too many people on welfare would reside in the development.

Responding to the concerns raised by the opponents, the applicants' representative testified that with regard to the fee simple units, they would lay the foundation for these units along with the other units but that the structure would be built after

they have a pre-construction contract. He testified that the applicants had an independent firm conduct a market study and if changes needed to be made in the marketing plan to ensure the viability of the project, the participating parties will meet to make those changes. However, he believes that the market units will be sold because there are people in the delineated income tier who will want to buy the houses.

The applicant stated that the plans submitted to the Board are only likely to change to meet the requirements of the HPRB.

At the end of the public hearing, the Board left the record open to receive the independent market analysis which was to be prepared for the DCHA, and a construction phasing schedule to determine whether fee simple units would be included in each phase of construction.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds as follows:

1. The shape of the site, its topography and location in the Capitol Hill area all create unique and exceptional conditions for the applicants in implementing the proposed plan under existing regulations.

2. It will not adversely affect the use of neighboring property to:

- a. Allow construction on theoretical lots;
- b. Allow front yard setbacks of 13 feet for units on the mews;
- c. Permit the mews to be a one-way street; or
- d. Locate some of the residential parking spaces off-site;
- e. Allow a community center; or
- f. Allow a child development center on site.

3. An adverse impact will not be created by:

- a. Allowing some units without rear yards since adequate side yards will be provided;
- b. Allowing substandard side yards on three of the lots;

c. Allowing Lot 1 to exceed the allowable lot occupancy by 1.025 percent; and

d. Allowing some parallel parking spaces to be less than 9 x 19 in size.

4. The community center will not be organized for profit. It will be organized exclusively to promote social welfare in the Capitol Hill neighborhood where it is located.

5. The community center will not offer articles of commerce for sale.

6. The community center is reasonably necessary and convenient to the subject community and it is unlikely to become objectionable because of noise and traffic.

7. The applicant will meet all of the applicable code and licensing requirements for the child development center.

8. The child development center will not create objectionable traffic conditions or unsafe conditions for picking up or dropping off children.

9. There will be sufficient off-street parking spaces provided at the center to meet the reasonable needs of teachers, other employees and visitors.

10. The child care center will be located and designed so as not to create objectionable impacts on adjacent or nearby properties due to noise, activity or visual or other objectionable conditions.

11. The play area will not be located off site.

12. The conditions to approval of this application recommended by ANC 6B are outside of the purview of the zoning regulations and outside of the jurisdiction of the Board.

13. Based on the applicants' traffic report and the DPW report, the proposed development will have no adverse impact from a transportation standpoint.

14. The market study and construction phasing plan were requested by the Board and submitted by the applicants to address some of the issues raised by opponents to the application. The construction phasing schedule revealed that the simple units are to be built along with the co-operative units in various phases of construction. However, the concerns raised by the opposing parties, including the proposed financial plan, the resident

profile, the mixed-income resident population and the ability to attract residents from the higher income brackets, the cooperative homeownership structure, the ability to sell the fee simple units and concerns as to whether the fee simple units would be constructed are matters not within the purview of the zoning regulations or the jurisdiction of this Board. Therefore, the Board makes no further findings with regard to these matters.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicants are seeking variance and special exception relief to allow the construction of 62 flats, 30 single-family dwellings, a community center with a child development center and a utility building, in an R-5-B district. Granting of the special exception relief requires a showing through substantial evidence that the relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not adversely affect the use of neighboring property in accordance with the Regulations and Maps.

Based on the record before the Board, the Board concludes that the applicant has met this burden of proof. The Board concludes that the development plan, design and the proposed use of the site will be in harmony with the intent and purpose of the Zoning Regulations and Map. The Board further concludes that the proposed development will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map.

Granting of the variance relief, requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that granting the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board is of the opinion that the applicants have met this burden of proof. The Board concludes that there exist unique and exceptional situations related to the site which create a practical difficulty for the owner in the effort to comply with the Zoning Regulations.

The Board concludes that granting the variance relief will not be of substantial detriment to the public good. The Board further concludes that approval will not tend to impair the intent, purpose or integrity of the zone plan.

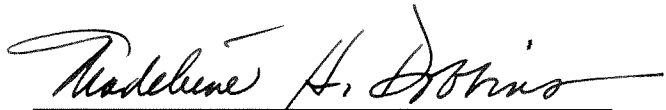
Therefore, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The maximum hours of operation for the day care center shall be Monday through Friday, 6:00 a.m. to 8:00 p.m.
2. The maximum number of children shall be 24 and the maximum number of staff shall be 5.
3. A minimum of four spaces shall be provided for exclusive use of the day care center for purposes of dropping off and picking up children.
4. The proposed community center and child development facility shall meet all code and licensing requirements.
5. The exterior of the dwellings and community center shall be maintained in good repair in keeping with the other residences in the area. Landscaping of common areas and front yards shall be maintained in a neat and orderly manner and in a healthy growing condition.
6. The applicant shall establish and maintain a community liaison program consisting of representatives of the applicant and the ANC. The applicant shall conduct meetings of the community liaison members at least four times a year. Notice of the meetings shall be given to the ANC. The applicant shall be responsible for keeping minutes of all meetings and providing quarterly reports of its activities.

VOTE: 4-0 (Susan Morgan Hinton, Herbert M. Franklin, Sheila Cross Reid and Laura M. Richards to grant; Angel F. Clarens not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER: \_\_\_\_\_

SEP 23 1996

BZA APPLICATION NO. 16131  
PAGE NO. 22

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16131/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16131

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 23 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Greenstein, DeLorme & Luchs, P.C.  
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Washington, D.C. 20036

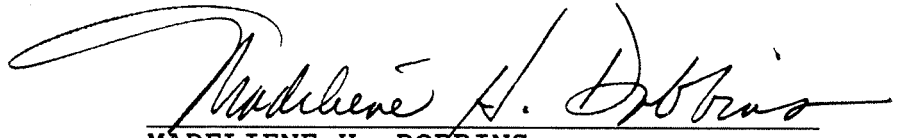
District of Columbia Housing Authority  
David Gilmoore, Receiver  
1133 North Capitol Street, N.E.  
Washington, D.C. 20002-7599

Peter J. Waldron, Chairperson  
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MADELIENE H. DOBBINS  
Director

DATE: SEP 23 1996